
Changes to legislation: There are currently no known outstanding effects for the Northern Ireland (Sentences) Act 1998, SCHEDULE 3. (See end of Document for details)

SCHEDULES

SCHEDULE 3

Section 17.

SENTENCES PASSED OUTSIDE NORTHERN IRELAND

Eligibility for release

- 1 (1) This paragraph applies where a prisoner who makes an application to Commissioners under section 3(1) is serving a sentence of imprisonment in Northern Ireland and the sentence was passed in England and Wales or Scotland.
- (2) Where the applicant is serving a sentence of imprisonment for a fixed term, the Commissioners shall grant the application if (and only if)—
- (a) the sentence is for a term of at least five years,
 - (b) the sentence was passed for an offence equivalent to a qualifying offence, and
 - (c) the second and third conditions in section 3 are satisfied.
- (3) Where the applicant is serving a sentence of imprisonment for life, the Commissioners shall grant the application if (and only if)—
- (a) the sentence was passed for an offence equivalent to a qualifying offence, and
 - (b) the second, third and fourth conditions in section 3 are satisfied.

Equivalent offence

- 2 (1) An offence is equivalent to a qualifying offence if it—
- (a) was committed before 10th April 1998,
 - (b) was committed in connection with terrorism and the affairs of Northern Ireland, and
 - (c) is certified by the appropriate Law Officer as an offence which if it had been committed in Northern Ireland would have been a scheduled offence within the meaning of the ^{M1}Northern Ireland (Emergency Provisions) Act 1973, ^{M2}1978, ^{M3}1991 or ^{M4}1996.
- (2) If a person who makes an application under section 3 in relation to a sentence for an offence requests the appropriate Law Officer to provide a certificate under sub-paragraph (1)(c) in relation to that offence, the Law Officer shall as soon as reasonably practicable—
- (a) grant the certificate, or
 - (b) refuse the request and notify the person who made the request of the refusal and the reasons for it.
- (3) In deciding whether an offence would have been a scheduled offence a Law Officer shall ignore the possibility of a certificate by the Attorney General for Northern Ireland that the offence was not to be treated as a scheduled offence.

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- (4) For the purposes of this paragraph the appropriate Law Officer is—
- (a) in relation to an offence committed in England and Wales, the Attorney General, and
 - (b) in relation to an offence committed in Scotland, the Lord Advocate.

Annotations:

Marginal Citations

- M1** 1973 c. 53.
M2 1978 c. 5.
M3 1991 c. 24.
M4 1996 c. 22.

Effect of declaration

- 3 Where a declaration is granted under section 3 in accordance with paragraph 1, sections 4 to 14 shall have effect with the following modifications.
- 4 (1) For section 4(1)(b) there shall be substituted—
- “(b) one day for every day of remission which he has lost and not had restored (or additional day which he has been awarded and which has not been remitted) in accordance with prison rules.”.
- (2) The reference in section 4(4) to the time when a prisoner could have been discharged under prison rules shall be treated as a reference to the time when he could have been discharged had the relevant sentence been passed in Northern Ireland for a scheduled offence.
- 5 The references in sections 5 and 10 to section 26 of the ^{M5}Treatment of Offenders Act Northern Ireland) 1968 shall be treated as references to any enactment which has the effect of, or an effect similar to, that section and which applies to the prisoner concerned.

Annotations:

Marginal Citations

- M5** 1968 c. 29 (N.I.).

- 6 The following shall be substituted for section 7—

“7 Life prisoners: specified dates.

In specifying a day for a prisoner under section 6 the Commissioners must have regard to—

- (a) any order or direction made in relation to the prisoner under section 28 of the ^{M6}Crime (Sentences) Act 1997 (duty to release certain life prisoners);
- (b) any order made in relation to the prisoner under section 34 of the ^{M7}Criminal Justice Act 1991 (duty to release discretionary life prisoners) or certificate under paragraph 9 of Schedule 12 to that Act (transitional provisions);

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- (c) any certificate issued by the Lord Justice General in relation to the prisoner under section 16(2) of the ^{M8}Crime and Punishment (Scotland) Act 1997 or paragraph 6 of Schedule 6 to the ^{M9}Prisoners and Criminal Proceedings (Scotland) Act 1993 (transitional provisions);
- (d) any order made in relation to the prisoner under section 2 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (duty to release designated life prisoners);
- (e) any other information, whether relating to the prisoner’s case or to other cases, which the Secretary of State submits; and
- (f) previous decisions of Commissioners.”.

Annotations:

Marginal Citations

- M6** 1997 c. 43.
- M7** 1991 c. 53.
- M8** 1997 c. 48.
- M9** 1993 c. 9.

- 7 For section 15(1)(b) there shall be substituted—
“(b) that the sentence was passed for an offence equivalent to a qualifying offence.”.
- 8 (1) The reference in section 12(4) to detention at the Secretary of State’s pleasure shall be treated as a reference to detention at Her Majesty’s pleasure or detention for life or without limit of time under section 205 of the ^{M10}Criminal Procedure (Scotland) Act 1995.
- (2) For section 12(5)(b) there shall be substituted—
“(b) was passed for an offence equivalent to a qualifying offence.”.

Annotations:

Marginal Citations

- M10** 1995 c. 43.

Restricted transfers

- 9 (1) Nothing in Part II of Schedule 1 to the Crime (Sentences) Act 1997 (transfer of prisoners: restricted transfers) shall prevent the making of an application under section 3 of this Act.
- (2) The following provisions of this paragraph have effect where—
 - (a) a prisoner is granted a declaration under section 3 in relation to a sentence in accordance with paragraph 1, and
 - (b) his transfer to Northern Ireland in respect of that sentence was a restricted transfer for the purposes of Part II of Schedule 1 to the 1997 Act.
- (3) A fixed term prisoner’s transfer shall cease to be a restricted transfer when the declaration under section 3 is made.

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- (4) A life-sentence prisoner's transfer shall cease to be a restricted transfer when he is released on licence under section 6.
- (5) Where a transfer under Part I of Schedule 1 to the 1997 Act ceases to be a restricted transfer in accordance with this paragraph, paragraph 15 of that Schedule shall apply as if the transfer were an unrestricted transfer and had been effected at that time.

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